

Appl. No. 09/981,389
Response Dated December 7, 2005
Reply to Office Action of September 10, 2004

REMARKS

Summary

Claims 1-26 are presently pending in this application. Claim 1 has been amended. No new matter has been added. Favorable reconsideration and allowance of the pending claims are respectfully requested.

Allowed Claims

We would like to thank the Examiner for indicating the allowability of claims 19-26.

Allowable Claims

We would also like to thank the Examiner for indicating the allowability of claims 6, 11 and 18 if amended to include all of the limitations of the base claims and any intervening claims. Applicant respectfully submits, however, that these claims represent patentable subject matter as currently listed based on the amendments and/or remarks given for the independent claims as discussed in detail below. Applicant would like to respectfully reserve the right, however, to amend the allowable claims into independent form during further prosecution if warranted.

35 U.S.C. § 102 Rejection

In the Office Action, claims 1-5, 7-10, and 12-17 were rejected under 35 U.S.C.

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§ 102(e) as being anticipated by United States Patent Application 2002/0097885 ("Birchfield"). Applicant respectfully traverses the rejection, and requests favorable reconsideration and withdrawal of the § 102(e) rejection.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claim 1 in order to facilitate prosecution on the merits. Applicant submits that the amendments merely clarify, either expressly or impliedly, what was already present in the claims. Furthermore, Applicant submits that the amendments are not narrowing amendments and are not being made for reasons substantially related to patentability.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that the Birchfield reference fails to teach each and every element recited in claim 1 and thus it defines over the Birchfield reference. For example, the Birchfield reference fails to teach, among other things, the following language of amended claim 1:

at least one reflector having an acoustically reflective surface structured and arranged to reflect the acoustic waves in a direction of the first location and the second location....

According to the Office Action, "Birchfield discloses ... at least one acoustically reflective surface to reflect the acoustic waves (paragraph 0038)." Applicant respectfully disagrees. Birchfield, at paragraph 0038, states:

In some applications it is desirable to determine the direction to a human speaker. Consequently, in one embodiment a speech detection module 320 is used to select

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only sounds corresponding to human speech for analysis. For example, speech detection module 320 may use any known technique to analyze the characteristics of acoustic signals and compare them with a model of human speech characteristics to select only human speech for analysis under the present invention.

At paragraph 0038, the Birchfield reference appears limited to describing the use of a speech detection module 320 to select only sounds corresponding to human speech for analysis. Paragraph 0038 does not mention reflecting acoustic waves in any context. Furthermore, paragraph 0038 does not discuss any structure to perform the reflecting, let alone "at least one reflector having an acoustically reflective surface structured and arranged to reflect the acoustic waves" as recited in claim 1. In addition, paragraph 0038 does not discuss reflecting the acoustic waves "in a direction of the first location and the second location" as also recited in claim 1. Consequently, the Birchfield reference clearly fails to disclose all the elements or features of the claimed subject matter at the given cite. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1.

Claims 2-6 also define over the Birchfield reference. Claims 2-6 depend from claim 1 and therefore define over the Birchfield reference for at least the same reasons given for claim 1. In addition, claims 2-6 also contain additional features that further distinguish these claims from the Birchfield reference. For example, the Office Action alleges that:

Birchfield teaches that in some applications it is desirable to determine the direction of a human speaker (paragraph 0038). A human has ears, and the ears read on at least one acoustically reflective surface having an irregular shape. Therefore, all elements of claim 2 are comprehended by claim 1.

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Applicant respectfully disagrees that an “acoustically reflective surface” as recited in claims 1 and 2 read upon the human ear. In any event, the human ear is clearly not “an acoustically reflective surface structured and arranged to reflect the acoustic waves in a direction of the first location and the second location” as recited in claims 1 and 2. Applicant therefore requests withdrawal of the anticipation rejection with respect to claims 2-6.

Claims 7 and 12 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 7 and 12 are not anticipated and are patentable over the Birchfield reference for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 7 and 12. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 8-11 and 13-18 that depend from claims 7 or 12, and therefore contain additional features that further distinguish these claims from the Birchfield reference.

Conclusion

For at least the above reasons, Applicant submits that claims 1-26 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

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Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-26 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

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The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to the credit card in the previously filed credit card authorization form.

Respectfully submitted,

KACVINSKY LLC



John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: December 7, 2005

4500 Brooktree Road, Suite 102
Wexford, Pennsylvania 15090

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I hereby certify that this correspondence is being transmitted by facsimile on the date shown below to the United States Patent and Trademark Office.



Deborah L. Higham

12/7/05

Date